

## **REMARKS / ARGUMENTS**

In complete response to the Office Action dated March 24, 2006, on the above identified application, reconsideration is respectfully requested. Claims 42-66 are pending in this application.

With this amendment, claims 63-66 have been cancelled.

### **Claim Rejections under 35 U.S.C. § 112**

Claims 64 and 66 currently stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Due to the aforementioned claim cancellations, the Applicants respectfully contend that this rejection is now moot.

### **Claim Rejections under 35 U.S.C. § 102**

Claims 63 – 66 currently stand rejected under 35 U.S.C. 102(b) as being anticipated by Mondain-Monval (US 4,820,258). Due to the aforementioned claim cancellations, the Applicants respectfully contend that this rejection is now moot.

Claims 63 – 66 currently stand rejected under 35 U.S.C. 102(a) as being anticipated by Homi et al. (Anesthesiology 2003, 99, 876-881). Due to the aforementioned claim cancellations, the Applicants respectfully contend that this rejection is now moot.

### **Claim Rejections under 35 U.S.C. § 103**

Claims 42 – 62 currently stand rejected under 35 U.S.C. 103(a) as being unpatentable over Homi '2003 in view of Mondain '258. The Applicants respectfully contend that this rejection is improper in that the Homi '2003 reference is not prior art under either 35 U.S.C. § 103, or 35 U.S.C. § 102.


The Applicants respectfully contend that the instant application's perfected priority claim predates the Homi '2003 reference, and therefore the Homi '2003 reference should not be cited as prior art. To this end, the Applicants have enclosed, with this response, both an official copy and a certified translation of the priority document (French Patent Application 0350002, filed January 15, 2003). For these reasons, the Applicants respectfully contend the basis for this rejection deserves reconsideration.

Appl. No. 10/758,513  
Attorney Docket No. Serie 6093  
Amdt. dated August 15, 2006  
Reply to Office Action of March 24, 2006

## CONCLUSION

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited. Should the Examiner believe a telephone call would expedite the prosecution of the application, he is invited to call the undersigned attorney at the number listed below.

Respectfully submitted,

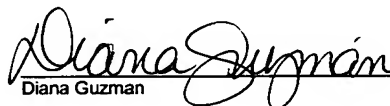
  
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Date: **August 15, 2006**

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### CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 15<sup>th</sup> day of August, 2006.

  
Diana Guzman